

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* ANAYA, Minors.

UNPUBLISHED  
September 14, 2017

No. 337294  
Lenawee Circuit Court  
Family Division  
LC No. 2014-000226-NA

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Before: O'BRIEN, P.J., and JANSEN and MURRAY, JJ.

PER CURIAM.

Respondent mother appeals as of right the trial court's order terminating her parental rights to the minor children, AGA and AMA, pursuant to MCL 712A.19b(3)(g) and (j). We affirm.

At trial, petitioner also requested the trial court to terminate respondent's parental rights to another child, MN. AGA and AMA, who were twins, had a different father than MN. At the conclusion of the termination trial, the trial court found that statutory grounds for termination had been established with respect to all three children, but held that it was only in AGA and AMA's best interests to terminate respondent's parental rights.

On appeal, respondent does not challenge whether a statutory ground under MCL 712A.19b(3) was established,<sup>1</sup> but instead she contends that the trial court erred by finding that termination was in AGA and AMA's best interests, but not MN's. We disagree. In *In re Olive/Metts Minors*, 297 Mich App 35, 42; 823 NW2d 144 (2012), this Court held that it is "incumbent on the trial court to view each child individually when determining whether termination of parental rights is in that child's best interests." In *In re White*, 303 Mich App 701, 715-716; 846 NW2d 61 (2014), this Court clarified that "*In re Olive/Metts* stands for the proposition that, if the best interests of the individual children *significantly* differ, the trial court should address those differences when making its determination of the children's best interests."

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<sup>1</sup> To the extent that respondent implies in passing that the statutory grounds were not proven, we need not address the issue because (1) respondent abandoned the issue by giving it only cursory treatment, *In re ASF*, 311 Mich App 420, 440; 876 NW2d 253 (2015), and (2) respondent waived the issue by failing to properly present it in her statement of questions presented, *In re BKD*, 246 Mich App 212, 218; 631 NW2d 353 (2001).

Here, the trial court properly considered MN's best interests separate from AGA and AMA's because MN's best interests were significantly different. AGA and AMA were removed from respondent's care shortly after their birth and remained in relative placement since that time. In contrast, MN was significantly older and had lived with respondent for much of his life. As a result, MN had a very strong bond with respondent, unlike AGA and AMA. Further, there were no reported problems with AGA and AMA's placement away from respondent, whereas MN experienced significant problems in his foster placement. In fact, MN's foster placement ultimately requested that he be moved to a new placement because his attitude and behavior made him too difficult to parent. As a result, MN was moved to Christ Child House, a residential facility for foster children, where he was residing at the time of the termination trial. In its best-interest analysis, the trial court recognized that it was generally in the children's best interests to remain with their siblings, see *In re Olive/Metts*, 297 Mich App at 42, but nonetheless concluded that MN's best interests differed significantly from AGA and AMA's, see *In re White*, 303 Mich App at 715-716, and accordingly found that termination was in AGA and AMA's, but not in MN's, best interests. Based on the clear differences between the siblings apparent from our review of the record, we find no error in the trial court's conclusion that MN's best interests significantly differed from AGA and AMA's. Thus, the trial court properly considered the twins' best interests separate from MN's.

To the extent that respondent argues that termination was not in AGA and AMA's best interests, we disagree. The trial court's determination of the children's best interests must be supported by a preponderance of the evidence. *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). Appellate courts review for clear error the court's decision regarding the children's best interests. *In re Johnson*, 305 Mich App 328, 335; 852 NW2d 224 (2014).

"[T]he focus at the best-interest stage" is "on the child, not the parent." *In re Moss*, 301 Mich App at 87. The trial court should weigh all the evidence available to it in determining the child's best interests, *In re Trejo*, 462 Mich 341, 3564; 612 NW2d 407 (2000), superseded by statute on other grounds as recognized in *In re Moss*, 301 Mich App at 83, and may consider such factors as "the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home." *In re Olive/Metts*, 297 Mich App at 41-42 (internal citations omitted). Other considerations include "the children's well-being while in [the parent's] care . . . and the possibility of adoption." *In re White*, 303 Mich App at 714.

Here, AGA and AMA were removed from respondent's care shortly after their birth. Respondent had an inconsistent visitation history with the twins, in large part due to transportation issues. During the course of these proceedings, respondent's driver's license was suspended after she was arrested for driving under the influence of alcohol (DUI). Afterwards, she only visited the children consistently if they were brought to her. As a result, although respondent had a bond with AGA and AMA, it was relatively weak.

Moreover, respondent's psychological evaluation raised a number of concerns regarding her ability to parent. The evaluation indicated that respondent was an egocentric, angry, and discontented person who resented authority and constraints on her behavior. The evaluation also noted that it was unable to determine whether respondent had adequate knowledge about child development because respondent's self-centeredness precluded her from demonstrating such

knowledge; she was preoccupied with talking about herself to the exclusion of her children. The evaluation concluded that respondent's personality characteristics created significant impediments to her ability to meet her children's needs and that this was unlikely to change with additional services. This conclusion was bore out during the case. Respondent continually blamed her caseworker for her inability to follow through with services and refused to accept responsibility for her situation.

While mother struggled to address her issues, AGA and AMA had no reported problems with their placement. In fact, the placement expressed its willingness to adopt the twins if respondent's rights were terminated. In contrast, respondent's situation was perpetually unstable. Throughout the over two years of these proceedings, respondent was without suitable housing and income, and as such, she was unable to provide for the children's basic needs. Respondent also had an ongoing problem with alcohol, which she denied for much of the case. As a result, she was unable to understand or address how it affected her ability to parent, despite the obvious connection between her DUI and inability to transport herself to her visitations with AGA and AMA. Respondent also had a history of domestic violence, including one instance in which one of the twins was injured during a physical altercation. At the time of the termination trial, domestic violence between respondent and the twins' father remained an ongoing concern. Respondent recognized that her relationship with the twins' father was unhealthy, yet she stated at the termination trial that their future together was still uncertain. Respondent's unstable lifestyle, the uncertainty of her housing, her poor decision making, her ongoing problem with domestic violence, and the stability and permanency offered by the twins' current placement all support that termination was in AGA and AMA's best interests.

Lastly, although AGA and AMA's current placement was with a relative, the trial court explicitly acknowledged the relative placement and that it weighed against termination. See *In re Mason*, 486 Mich 142, 164; 782 NW2d 747 (2010). Nonetheless, the trial court found that termination was in AGA and AMA's best interests based on all of the other factors that supported that conclusion. Accordingly, in light of the trial court's consideration of respondent's bond with AMA and AGA, her visitation history, her psychological evaluation, her inadequate parenting skills, her ongoing problems with domestic violence, the advantages of the children's current placement, and the possibility of adoption, we conclude that the trial court's finding that termination was in AGA and AMA's best interests despite the relative placement was not clearly erroneous. *In re White*, 303 Mich App at 713.

Affirmed.

/s/ Colleen A. O'Brien  
/s/ Kathleen Jansen  
/s/ Christopher M. Murray